

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RAYSHAWN HAYNES,

1:22-cv-00536-JLT-EPG (PC)

Plaintiff,

ORDER DENYING PLAINTIFF'S MOTION  
FOR ADDITIONAL DISCOVERY AND  
GRANTING IN PART MOTION FOR  
ADDITIONAL TIME TO RESPOND TO  
MOTION FOR SUMMARY JUDGMENT

F. CONTREAS, *et al.*,

## Defendants.

(ECF No. 36)

Plaintiff Rayshawn Haynes is proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case proceeds on Plaintiff's Eighth Amendment excessive force claims against defendants Cleveland, Luna, Cloud, Orozco, Chan, and Contreas and his Fourteenth Amendment claim against defendant Rodriguez for unwanted medical treatment. (ECF No. 8 at 13). After Defendants appeared in this case (ECF No. 21) and all parties submitted statements related to scheduling and discovery (ECF Nos. 23, 27), the Court issued Scheduling (ECF No. 30) and Discovery orders (ECF No. 29) on August 17, 2023. Defendants moved for summary judgment on May 20, 2024. (ECF No. 34).

On June 3, 2024, Plaintiff filed a motion asking the Court for an additional 120 days to “to engage in informal and possibly formal discovery with the defendants before filing his motion opposing defendants motion for summary judgment.” (ECF No. 36 at 1). Plaintiff states he intends to “seek discovery of documents related to emergency medical response procedures, handcuffing of unconscious inmate/patient, training of custody staff regarding medical emergencies, use of ‘spit mask’ policy and procedure amongst other evidence that may be

1 uncovered during Admissions, Interrogatories and document request.” (*Id.* at 2). Plaintiff states  
2 he “just recently been able to obtain assistance for a inmate skilled in law Cal. Code Reg 3164.  
3 Plaintiff’s medical conditions i.e., seizures and impaired vison hinders his ability to function  
4 most of the time.” (*Id.*)

5 Per Court’s scheduling order (ECF No. 30), non-expert discovery opened on August 17,  
6 2023 and closed on March 18, 2024. Therefore, Plaintiff’s motion is a request to modify the  
7 Court’s scheduling order. District courts enter scheduling orders in actions to “limit the time to  
8 join other parties, amend the pleadings, complete discovery, and file motions.” Fed. R. Civ. P.  
9 16(b)(3). Once entered, a scheduling order “controls the course of the action unless the court  
10 modifies it.” Fed. R. Civ. P. 16(d). In general, the pretrial scheduling order can only be  
11 modified “upon a showing of good cause.” *Zivkovic v. S. California Edison Co.*, 302 F.3d 1080,  
12 1087 (9th Cir. 2002) (citing Fed. R. Civ. P. 16(b)). The pretrial schedule may be modified “if it  
13 cannot reasonably be met despite the diligence of the party seeking the extension.” *Id.* If the  
14 party seeking the modification “was not diligent, the inquiry should end” and the motion to  
15 modify should not be granted. *Id.*

16 Here, Plaintiff does not make any showing of diligence or good cause for modifying the  
17 order. He does not explain why this discovery could not have been conducted within the time  
18 period that the discovery was opened, or show that he submitted these requests but was unable  
19 to obtain answers. Plaintiff has not filed any motions to compel. While Plaintiff states he  
20 recently obtained assistance from an inmate, he does not explain any attempts to take discovery  
21 before obtaining assistance. Defendants’ motion for summary judgment is now pending and  
22 Plaintiff’s request to start discovery at this time would prejudice defendants and substantially  
23 delay resolution of the case.

24 Therefore, the Court will deny his motion to engage in further discovery.

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However, out of abundance of caution, the Court will grant Plaintiff an additional 30 days, until **July 19, 2024** to respond to Defendants' Motion for Summary Judgment. (ECF No. 34).

IT IS SO ORDERED.

Dated: June 4, 2024

/s/ Eric P. Groj  
UNITED STATES MAGISTRATE JUDGE